

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-218

Complainant: No. 1293310663A

Judge: No. 1293310663B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The judge was warned, however, to avoid any conduct that might suggest an appearance of impropriety.

The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: November 21, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on November 21, 2006.

This order may not be used as a basis for disqualification of a judge.

February 11th, 2006

To Whom It May Concern,

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My name is [redacted] and I am the Respondent of case [redacted]. On [redacted] at 9:00am in the [redacted] Superior Courthouse, [redacted] before Judge Pro Tem [redacted] I attended my custody hearing.

First, please let me make note that we were to have Honorable [redacted] preside over the case. My attorney found out on Monday afternoon that another Judge was going to preside over the case on that Friday. The new Judge was NOT Pro Tem [redacted] but Pro Tem [redacted]. By all accounts and knowledge, we were to try our case before Pro Tem [redacted]. It was not until we arrived in Court at 9:00am four days later that Pro Tem [redacted] took the stand. This in itself began the feelings of uneasiness in all of our minds and hearts.

Throughout the entire proceedings, Judge Pro Tem [redacted] acted very oddly. His mannerisms were questionable, as well as several statements he made. As far as his behavior, he frequently checked and announced the time, rolled his eyes, had rude and condescending tones when he spoke, sighed extremely loud, and laughed at remarks. He would literally spin around in circles in his chair, much like a little child. He would also disappear completely underneath his desk for minutes at a time, and then pop up out of nowhere. He turned his chair around so that it's back was facing the Court and would stare up at the ceiling. He also made jokes to the Court Clerk during the proceedings, and was overly-friendly with the Petitioner's witnesses (i.e.: a [redacted] Sheriff who had absolutely no relevance to the case at hand whatsoever. Only testifying to her work ethic; and never witnessed the Petitioner with the children once).

As far as actual statements made, The absolute worst one was when Judge Pro Tem [redacted] stated: "I already think I know what my ruling is going to be. to be quite frank with you folks. But let's get this done so that we can hear the rest and perhaps change my mind. Let's go." (On page 179 of the Court Transcript). This statement was said while the Petitioner (Mother) was still on the stand, and before I even had the chance to take the witness stand; and also before any of my other witnesses were able to testify. My attorney and I found this comment very confusing, and we were both astounded that Pro Tem [redacted] had actually just uttered those words. At the end of the spectacle, Pro Tem [redacted] stated that "Surprise, Surprise" he was going offer each party closing arguments if they wanted it. My attorney had all intentions of closing statements, but Petitioner's counsel did not have any. Then, before allowing my Attorney a chance at his closing remarks, Pro Tem [redacted] stated that "the Court did not need, and was not going to entertain any remarks because he was making his ruling right then". He then erupted into an outburst. He did not take a recess to his chambers to go over the facts and evidence of the trial, but rather exploded into a tirade with his arms flailing, and spit literally spewing from his mouth. He also slammed the admitted evidence down on the desk, and jumped out of his seat. After what seemed like forever, Pro Tem [redacted] stated that nothing was going to change, and then said that the Court was in "recess". He

left the Courtroom, jerking closed the door behind him. We were all very confused, and speechless. During the confusion, Pro Tem [redacted] came storming back into the Courtroom to say that I would receive a judgment of [redacted] from the Petitioner from cashed child support checks that were already ordered by the Court once for her to return, and that each party pays their own attorney's fees. He finally stormed out of the Courtroom a final time, and slammed the door behind him. He left several issues that were separate from custody not ruled upon and/or clarified. Including issues regarding the Primary Parent, Relocation of School, Petitioner's ban on alcohol, etc. None of these issues were ruled on, and/or clarified.

This kind of conduct and remarks are gross misconduct upon Pro Tem [redacted] behalf. He was biased, unjust, and a severe defiance and insubordination of the Judge's Code Of Judicial Conduct. He did not uphold himself with dignity, Fairness, and a fair and open mind. He also completely ignored [redacted] own Conciliation Court report from [redacted]-A licensed counselor and employee of the [redacted] Conciliation Court. Enclosed in the report were hard facts, and immense concerns solely surrounding the Petitioner and her behavior, conduct, and possible addictions. The Conciliation Counselor recommended that I receive sole legal and physical custody of my children, and gave several recommendations to the Court about the Petitioner, including attending TASC for possible alcohol abuse, Anger Management classes, and possible supervised visitation with the children. He also totally ignored statements and concerns from a [redacted] Police officer who was called as a witness, as well as a CPS worker who took the stand. Every one of them had concerns surrounding the safety of the children while in the Petitioner's care. But ALL of these professional recommendations from the [redacted] Conciliation Court, [redacted] Police, as well as CPS were completely dismissed and ignored by Pro Tem [redacted] A fallacy of the Court system.

A few days after the Court hearing, My attorney found out that [redacted] had been a Public Defender for the [redacted] Court at the same exact time that the Petitioner, [redacted] was employed by the [redacted] Court. They had worked side by side, and had been acquaintances. Pro Tem [redacted] had also been acquaintances with Petitioner's other witnesses, which explained his overly-friendly behavior to Petitioner's side and witnesses during the trial. This information made my heart sink, and confirmed every ill thought and sneaking suspicion that we had surrounding the trial and it's overall misconduct. Pro Tem [redacted] should have immediately recused himself from the stand when acquaintances were before him, Yet he chose to remain the presiding Judge; and allowed himself to become biased and unjust. I personally feel that the appearance and ruling of Pro Tem [redacted] was as a 'favor' to the Petitioner's side. All of the behavior, statements, actions, rulings, friendships, and information revealed afterwards all point to this logical conclusion.

I am truly saddened and disheartened by the actions of Judge Pro Tem [redacted] [redacted] I have fought for 5 long years to get into Court and have a fair and unbiased trial. I only want my children safe from harm, and I have to continually fight for their own wants and wishes. I have done everything the correct and legal way, and moved forward

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step by step in my pursuit of a fair trial, and Honest Judge. Lawfully, I am entitled to a fair and just trial and Judge, Yet I feel that I was not allowed those things. I only want justice done, and that is all I am asking for. I am going through the Appeals process due to the direct actions of Pro Tem [redacted] and have to continually lose precious time in the pursuit of keeping my children safe from harm, and continually add to my enormous Attorney's fees. Life after the trial has become unbearable with the Petitioner; As I have had to endure her punishment tactics, malicious and controlling actions, Spiteful revenge against the children themselves, and even have to endure fictitious accusations Petitioner filed against me out of spite. I can now only pray that I can receive a just and fair Judge in the Appeals process; one who will look at the factual evidence presented before him/her and rule in a manner that will uphold the morals of the Court. Because sadly, Pro Tem [redacted] did not; And now my family's lives are suffering enormously from it.

